

Bail by Mail Self-Help Kit

**a guide to applying for bail or
varying bail if you have been
charged with a crime in
Queensland**



**PRISONERS'
LEGAL
SERVICE INC.**



**Legal Aid
QUEENSLAND**

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PLEASE NOTE: This kit is intended to provide you with information only. If you have a legal problem, you should seek legal advice from a lawyer.

Legal Aid Queensland and the Prisoners' Legal Service believe that the information provided is accurate as at June 2001 and do not accept responsibility for any errors or omissions.

1 when should I use this kit?

What this kit can help you with

This kit can help you if you are on remand and want to apply for bail.

What this kit cannot help you with

This kit cannot help you argue against your charges.

This is an application for bail only.

This kit contains only brief information about bail pending an appeal.

If you are in this situation **get legal advice.**

The three stages of bail you need to complete:

Stage 1

Complete all the necessary forms, examples of which are included in this kit.

Stage 2

File the forms with the Supreme Court.

Stage 3

Present your bail application in the Supreme Court.

Important

Before you begin making your own application, you should ask for assistance from Legal Aid Queensland.

If you are refused legal aid and you still wish to apply for bail, then you should get the bail clerk at your centre (if applicable) to prepare and type your application. The agencies listed on page 43 of this kit will file your application for you.

Do not post your application directly to the Court, as the Court will not arrange for service on the Director of Prosecutions Office. You will only delay your application if you do this.

“Before you begin making your own application, you should ask for assistance from Legal Aid Queensland.”

important - court directive

The following directive regarding self-represented bail applications has been produced by the Court and must be complied with.

Self-Represented Bail

Applicants for bail in the Supreme Court who apply without legal representation should bear the following considerations in mind:

- They should verify that the application deals with the charges they are held on by contacting the sentence management section at their correctional institution, through the bail clerk if there is one at their institution.
- Their supporting affidavit should state whether or not Legal Aid has been applied for in respect of the application; if it has, it should be stated whether the application has been refused, accepted or is still outstanding.
- The affidavit should also contain the information dealt with in the bail kit and deal with the issues raised in the kit which apply to the particular case.
- Letters to be relied on at the application from:
 - accommodation providers;
 - drug rehabilitation centres;
 - employers or potential employers;
 - proposed sureties;
 - persons otherwise offering support;should contain sufficient information (name, address, telephone number at least) to allow inquiries to be made.
- Applicants should bear in mind that acceptance into any rehabilitation programs may be conditioned on accommodation being available. The Court may impose a condition that release is subject to accommodation and suitable transport being available.
- All material to be produced to the judge at the bail application, whether in the form of affidavits, letters of support or otherwise, should be provided to the Director of Public Prosecutions sufficiently prior to the application to allow it to be evaluated, and where necessary, checked.
- Producing sworn or unsworn documents at the hearing for the first time is discouraged. It is likely that doing so will result in an adjournment so that the material can be sworn and any necessary investigation carried out by the Director of Public Prosecutions.

- It should be clearly understood that **there is no advantage** but **probable disadvantage** in an application for bail without the Director of Public Prosecutions having been supplied with all the material intended to be relied on and given reasonable time to evaluate it and make any necessary inquiries. The two clear days provided for by the Rules of Court are unlikely to be sufficient in many cases.
- The disadvantage of failing to provide all the material and allow a reasonable time is that the application may be dismissed or adjourned. If the application is dismissed, the applicant will have to commence the process all over again (and, if it is dismissed after a hearing, will not be permitted to bring a fresh application without demonstrating a change in circumstances). If it is adjourned, it will be adjourned sufficiently far ahead to allow for evaluation and inquiries and for the Court to accommodate other demands for its time.
- If there are any difficulties in complying with these requirements, contact:
 - Prisoners' Legal Service on **07 3846 3384** or **1800 813 940** (9am – 1pm Tuesdays and Thursdays) *or*
 - Legal Aid Queensland on **1300 65 11 88**.

3 legal terms used in this kit

Adjourn

This is when a bail application is put off until a future date. When bail applications are adjourned it is usually because the court needs more information.

Affidavit

This is a signed, written statement by a person involved in the case, stating what they know. It is sworn under oath (on the bible) or affirmed (see “Affirming”). The following is the standard legal Oath on an Affidavit. It is always the last paragraph of the Affidavit:

All the facts and circumstances herein deposed to are within my knowledge and belief save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my Affidavit.

Affirming

Stating that what you say or write is the truth. Used instead of “taking the Oath” because your religion does not allow you to take an Oath or you do not have a religion.

Application for Bail

This is a document that tells the court you want to apply for bail.

Application Number

The number given to your bail application by the Supreme Court when you file your application and supporting Affidavit.

Crown/Prosecution

The lawyers who represent the Crown during your bail application and who will argue against your application.

Justice of the Peace/ Commissioner for Declarations/Lawyer

These are the people who must watch you sign your Affidavit.

Oath/Sworn

“Taking the Oath” means swearing on the Bible that you will tell or have told the truth. If you do not believe in the Bible you can affirm the content of your Affidavit is true.

Remand

The time spent in custody if you have been refused bail and are awaiting trial/sentence.

Committal/Mention/Hearing/ Summary/Trial/Sentencing/ Appeal

Stages of the court process.

Surety

Someone who gives an amount of money or pledges property to the court as a guarantee that you will follow your bail conditions. If you break your bail conditions or fail to appear in Court, then the surety will lose the money they put up for you.

Witness

A witness is a Justice of the Peace, Commissioner for Declarations or lawyer who must watch you sign your Affidavit. Only these people can be your witnesses.

4 general information about bail

The court will only grant you bail if it is satisfied that you will meet certain conditions, of which the most important are:

- You will appear in court for your next hearing;
- You will not break the law while on bail;
- You are not a danger to the general public, witnesses or yourself.

The court looks at a number of factors to decide if you will meet these conditions.

Factors the court considers

Seriousness of the offence

The more serious the offence you have committed, the stronger your reasons will have to be to have bail granted. The court must consider the safety of the community.

Previous breaches of bail

If you have breached bail in the past by failing to appear in court, you will need to explain to the Court why you did so and convince the court that you will not do so again. The court will probably demand a surety.

Previous criminal history

The court will always have a record of your criminal history in Queensland and interstate. The Crown always supplies this information at a bail application.

Your criminal history will affect your bail application, especially if your previous convictions are similar to your present charge or you have committed offences while on bail. Previous convictions for breaches of bail should be explained.

If you have a history of drug or alcohol related offences the court may order that you undergo counselling and/or urine testing as a condition of your bail.

However, the court looks at each case on its merits. Your criminal history is just one of the factors the court considers.

Ties with Queensland

It will help your application if you can show that you have strong ties with Queensland, either because your family lives here or you have lived here all your life. However, it is possible to be granted bail even if your residence is in another State.

The court needs to know that you have a permanent address if granted bail. You should state who you will be living with and your relationship to them. The court will also want to know where you were living at the time you were arrested.

“The court will only grant you bail if it is satisfied that you will meet certain conditions...”

If you will stay in a boarding house, hostel or rehabilitation centre, make sure you confirm these arrangements before you go to court. Include the address of the boarding house or hostel in your Affidavit, and offer to report to a police station regularly. You should provide a letter confirming a placement in a rehabilitation centre to the court.

The court may demand a surety in your bail conditions if you do not have strong ties with Queensland.

Availability and amount of surety

Generally, it is important to have a surety. A person can only provide surety if:

- they are at least 18 years of age;
- they have no criminal convictions for indictable offences (if the indictable offence has been dealt with summarily, ie. in the Magistrates Court, it is not classified as a criminal conviction for an indictable offence. An indictable offence is a serious criminal offence, such as rape, break-and-enter, stealing);
- the property or money they offer belongs to them.

Usually the correctional centre will accept either ownership of real estate or cash. Some centres will accept other property of value, such as vehicles or jewellery.

If a person owns property, they can only provide surety for the amount they actually own. If there is still a mortgage, the surety can only cover the amount the person has paid off.

The amount of surety increases with:

- the seriousness of your offence;
- the number of times you have previously failed to appear in court when required;
- the fewer ties you have with Queensland.

Employment

It will help your application if you can provide the court with proof of employment if granted bail.

Medical History

If you have a condition that needs ongoing or specialist treatment, the court may take your medical history into account.

Drug/Alcohol/Gambling Addiction and Domestic Violence

If you are remanded in custody on drug related charges or have previous convictions for drug related offences, it will help your application if you can provide the court with proof that you are addressing your alleged offending behaviour, ie. a letter confirming placement in a drug rehabilitation centre or counselling for your alleged addiction or behaviour.

Opposite is a list of centres that provide live-in rehabilitation or counselling.

“It will help your application if you can provide the court with proof of employment if granted bail.”

Live-in centres

Moonyah

Street Address: 58 Glenrosa Road, Red Hill
Postal Address: PO Box 81, Red Hill Qld 4059
Tel. (07) 3369 0922

Fairhaven

Street Address: 497 Parklands Drive, Southport
Postal Address: PO Box 482, Ashmore City Qld 4214
Tel. (07) 5594 7288

Logan House

Street Address: Lot 1 Kirk Road, Chambers Flat
Postal Address: PO Box 65, Kingston Qld 4114
Tel. (07) 5546 3900

Mirikai

Street Address: 191 West Burleigh Road, Burleigh Heads
Postal Address: PO Box 2655, Burleigh Mail Centre, Burleigh Heads
Q 4220
Tel. (07) 5535 4302

Counselling

Hot House Youth Counselling

Address: 29 Grimes Street, Auchenflower Qld 4066
Tel. (07) 3208 6888

Logan Central Community Health Centre

Address: Cnr Wembley and Ewing Roads, Logan Central Qld
4114
Tel. (07) 3290 8900

Chermside Community Team

Address: The Prince Charles Hospital, Rode Road, Chermside
Qld 4032
Tel. (07) 3350 8911

For referrals to your nearest counselling service, including access to naltrexone treatment, call the Alcohol and Drug Information Service on Tel. (07) 3236 2414 or 1800 177 833.

The Alcohol and Drug Counsellor at your centre can also assist with arranging drug and alcohol rehabilitation and counselling.

stage 1 – completing the forms

The following pages will help you fill out the forms you need for your bail application.

Forms you must complete when you are remanded in custody without bail:

- an Application for Bail
- an Affidavit in support of your application for bail with any exhibits (ie. letters of support) with exhibit markings
- Exhibit markings (If you have exhibits you have to attach them to exhibit markings. Each exhibit requires a separate exhibit marking)
- a Draft Order for Bail

Samples of the documents you need are included in this kit.

“In your Application, you must list all the charges you are remanded in custody on.”

Important

If you make a mistake **do not** use liquid paper. Rule a line through any mistakes and write the correction in neat handwriting. If the mistake is in an Affidavit you and the person who witnesses the Affidavit must make an initial next to the correction in the side margin.

(If you have bail but you are still in custody because you cannot meet a requirement of bail eg. surety, go to page 13 and see “Changing a previously granted Bail Order”.)

Application for Bail

Use the sample application for bail in this kit as a guide. There are also practice forms included for you to practice on before putting together your ‘real’ application.

In your Application, you **must** list all the charges you are remanded in custody on.

Sentence Management at your centre will provide you with details of the charges you are remanded in custody on.

You **must** also state whether you have applied for bail before in the Supreme Court.

If so, you must give details of which court, the place and the date of any previous Supreme Court bail applications.

If you have been refused Supreme Court bail previously you must inform the court of your change of circumstances.

Affidavit

Your Affidavit needs to include the following paragraphs:

- a paragraph on your charges
- What you intend to do with your charges (ie. defend the charges)
- The time you have spent remanded in custody

- Your proposed residence
- Your previous residences for the past two years
- Your proposed employment (if any)
- Your previous employment or social security status
- Your proposed reporting conditions (frequency and location)
- Amount of surety (if any)
- Explanations for previous Breaches of Bail.
- Personal information (if any)
- Any counselling you are prepared to undertake
- If you are young, ie. 20 or under, whether you will abide by a curfew

Affidavit instructions

You *must* follow the content and layout guidelines of the attached sample Affidavit and practice Affidavit when you are putting together your Affidavit. They are set out the way the Court wants. Make sure that the person typing up your Affidavit follows the format shown.

If you are unable to type the forms the Registrar will accept neatly handwritten forms.

The following layout guidelines must be followed:

- You must put the footnote at the bottom of each page, except for the final page.
- Bolding and capital letters apply to all the names of the people referred to in the Affidavit, eg: **JANE HELENE PLAIN**.
- Each paragraph is numbered. If a paragraph does not apply to you and therefore you do not include it in your Affidavit, you need to renumber the paragraphs. For example if you take out paragraph 9, renumber the old paragraph 10 as 9.
- Any exhibit to your Affidavit (ie. letter of support) must have an exhibit marking attached (see sample exhibit marking on page 24)

Below is listed out some of the things you need to include in your Affidavit. Refer to the sample and practice Affidavits immediately following this section to see how it all works.

Paragraph 3 – Your charges

You must list all the charges for which you want bail. Ask your correctional centre to give you the exact charges for which you are being held.

They will give you either long or short title charges. Copy these charges onto your Affidavit.

A long charge will look like this:

That on the nineteenth day of December 1998 at Brisbane in the State of Queensland, one **JANE HELENE PLAIN** stole from one **KANE LAYNE** with actual violence, \$100 and at the time aforesaid the said **JANE HELENE PLAIN** was in the company of another person.

A short charge will look like this:

1 x stealing with actual violence whilst in company.

The court will accept either type of charge, providing it is correct and you include all the charges you want bail for.

“If you are unable to type the forms the Registrar will accept neatly handwritten forms.”

Important – Your correctional centre will not release you if their records show that you are being held on remand for a charge that is not in the bail order.

Ask your correctional centre which court and what date your next appearance will be held. If you are currently serving a sentence but you are on remand for other offences, you should make your application after your sentence is complete. If you are serving a period of imprisonment for unpaid fines you do not need to finish the sentence before applying for bail.

Paragraph 9 – Residence

Remember that the court wants to be sure that you will have a permanent place to live, if you are released on bail. You should tell the court who you will be living with and your relationship with them. If you have lived in Queensland for an extended period of time before you were arrested, make sure you include this in your Affidavit.

Put this information in paragraphs 9 and 10 of the Affidavit.

You should also include a letter from the person you will be living with as an exhibit with its own exhibit marking

Paragraph 11 – Employment

List details of your employment history. For example:

1. I was employed by Brain's Construction Company between 1992 and 1996 as a secretary.
2. Between 1996 and 1997 I was employed by Dane Lane's Paint Producing Factory as an administrative assistant.

Include all your previous jobs. You are not limited to mentioning one or two. It is important you include those jobs you held for a long time.

Put this information in paragraphs 11 and 12 of the Affidavit.

Paragraph 13 – Surety

Before you write the name of the person you have in mind to provide your surety, phone or write to that person to make sure they are willing to do so. Ask the person to write a letter confirming this agreement.

Put this information in paragraph 13 of the Affidavit.

Paragraph 15 – Previous Breaches of Bail

Fill in this section if you have breached bail in the past. It is important to give reasons for every time you failed to appear. For example:

“At the time I was required to appear in the Magistrates Court at Brisbane, I was in hospital with appendicitis.”

Put this information in paragraph 15 of the Affidavit.

Paragraph 16 – Personal Information

Include any personal information you think should be brought to the attention of the Judge, for example a serious medical condition that you or someone that you care for has, such as your child, de-facto, husband/wife, or mother.

Paragraph 19 – General Statement

If you intend to go to trial on the charges, include a paragraph in your Affidavit stating that you will be defending the charges.

“Your correctional centre will not release you if their records show that you are being held on remand for a charge that is not in the bail order.”

Draft Order for Bail

You should have a draft order for bail to hand to the judge hearing your application.

The draft order sets out the charges that you are seeking bail on.

It contains standard conditions and any other conditions you think the court may impose, for example a condition to reside at a drug rehabilitation centre.

Below is listed out some of the things you need to include in your Draft Order for Bail. Refer to the sample and practice Draft Order for Bail following the sample and practice Affidavits to see how it all works.

Paragraph 1 – Requirement to attend Court

You need your court dates and the court that you are required to attend, for example, the Magistrates Court at Brisbane on 5th July.

Paragraph 2- Non-Contact condition

A standard condition not to communicate with the complainant or witnesses.

Paragraph 3 - Residential condition

A standard condition stating where you intend to reside.

Paragraph 4 – Reporting Condition

A standard condition that you will report to police while on bail.

Changing a previously granted Bail Order (Variation of Bail)

You can apply to the Supreme Court to have a bail order from any court varied (changed). The procedure is the same as applying for bail, but you will need to provide information of the earlier request on your signed Application for Bail and you will need to include extra paragraphs in your Affidavit stating when you were granted bail, by which court, and on what conditions.

People usually want to change a bail order because a surety has been set which they cannot meet. If a Magistrate or Judge sets an amount for surety that is greater than the person providing the surety for you can give, you can apply to the Supreme Court to have the surety removed or reduced.

The forms you MUST complete:

- Application for Variation of Bail
- Affidavit in Support of variation of Bail with any exhibits (ie. letters of support) attached with exhibit markings
- Exhibit Markings
- Draft Order in support of variation of bail

Samples of the Documents you need are included in this kit.

Application to vary bail

Use the sample Application to vary Bail on page 30 as a guide.

The Application must list all the charges that you are remanded in custody on.

You must provide details of the existing court order (court, place and date).

“You can apply to the Supreme Court to have a bail order from any court varied...”

Affidavit (in support of application to vary bail)

Use the sample Affidavit (in support of application to vary bail) on page 32.

Your Affidavit needs to include the paragraphs in the Affidavit used in support of a bail application (see page 11-12) as well as extra information about the existing conditions of bail.

You should also include the reasons why the existing conditions for bail cannot be met and what alternative arrangement you have in place.

For example:

“I have contacted all family members that live in Queensland and they have advised me that they are unable to raise the amount of the surety. I have also contacted a number of other friends who also cannot raise this amount. I do not know anyone else I can ask to provide a surety.”

You then request the court to change the conditions of bail:

“I request that this Honourable Court vary my conditions of bail by removing the requirements of a surety/reducing the amount of surety.”

“I am prepared to report to the police each weekday.”

The court may impose other conditions if a bail order is changed, such as reporting to your local police station every day.

“The court may impose other conditions if a bail order is changed...”

sample forms

	page
sample form 1	16
Application for bail	
sample form 2	18
Affidavit	
sample form 3	24
Exhibit marking	
sample form 4	26
Bail order	
sample form 5	30
Application for variation of bail	
sample form 6	32
Affidavit (in support of application to vary bail)	
sample form 7	36
Bail order (in support of variation of bail)	

sample form 1: application for bail

IN THE SUPREME COURT OF QUEENSLAND AT BRISBANE

Number:

RE: AN APPLICATION FOR BAIL BY JANE HELENE PLAIN

I, **JANE HELENE PLAIN** of Maine Women's Correctional Centre, apply to the Supreme Court of Queensland at Brisbane for an order that I be admitted to bail for the offences of—

- 1 x stealing with violence in company
- 1 x assault occasioning bodily harm
- 1 x break, enter & steal

The application will be heard at 10 a.m. on 5 November 2001 in the Supreme Court at Brisbane.

Notice to applicant

1. You must also attach to this application any supporting affidavits or other documents that you will be relying on.
2. A copy of this application and the supporting affidavits or other documents must be served on the prosecutor at least 2 clear days before the day on which the application is to be heard, unless the prosecutor agrees to receiving them later.
3. If you have already applied for bail and been refused, you must state in your supporting affidavit any change of circumstances you rely on since that previous application.

Jane Helene Plain

.....
(signed) Applicant or lawyer

Date: 1 November 2001

Place: Maine Women's Correctional Centre

This application is to be served on: The Director
Office of the Director of Public
Prosecutions
5th Floor
State Law Building
50 Ann Street

Application for bail in the Supreme Court of Queensland

Filed on behalf of: Jane Helene Plain

Address for Service:
Jane Helene Plain
Maine Women's Correctional Centre
9 Rain Lane
Maine Q 4444

Form 2
(rule 25)

practice form 1: application for bail

IN THE SUPREME COURT OF QUEENSLAND AT **{PLACE}**

Number:

RE: AN APPLICATION FOR BAIL BY **{YOUR NAME}**

I, **{YOUR NAME}** of **{name of Correctional Centre}**, apply to the Supreme Court of Queensland at **{place}** for an order that I be admitted to bail for the offences of—

{list of all charges for which you want bail}

The application will be heard at 10 a.m. on **{registry will insert date}** in the Supreme Court at **{place}**.

Notice to applicant

1. You must also attach to this application any supporting affidavits or other documents that you will be relying on.
2. A copy of this application and the supporting affidavits or other documents must be served on the prosecutor at least 2 clear days before the day on which the application is to be heard, unless the prosecutor agrees to receiving them later.
3. If you have already applied for bail and been refused, you must state in your supporting affidavit any change of circumstances you rely on since that previous application.

{your signature}

.....
(signed) Applicant or lawyer

Date: **{date}**

Place: **{name of Correctional Centre}**

This application is to be served on:

The Director
Office of the Director of Public
Prosecutions
5th Floor
State Law Building
50 Ann Street

Application for bail in the Supreme Court of Queensland

Filed on behalf of: **{your name}**

Address for Service:

{your name}

{name and address of Correctional Centre}

Form 2
(rule 25)

sample form 2: affidavit

IN THE SUPREME COURT OF QUEENSLAND AT BRISBANE

Number:

RE: AN APPLICATION FOR BAIL BY JANE HELENE PLAIN

I, **JANE HELENE PLAIN** of Maine Women's Correctional Centre in the State of Queensland, prisoner, make oath and say as follows:-

1. I am the applicant in this matter
2. I was born on the 1st day of May 1969 in Maine, Australia and I am 32 years of age.
3. I stand remanded on the following:
 - a) 1 x stealing with violence in company
 - b) 1 x assault occasioning bodily harm
 - c) 1 x break, enter & steal
4. In respect of the charges mentioned in paragraph 3 herein, I am next to appear in the Magistrates Court at Brisbane on the 16th January 2002.
5. I respectfully request that this Honourable Court admit me to bail pending my further Court appearances.
6. I have been in custody on remand since the 20th September 2001.
7. **OTHER PENDING CHARGES**
I am further currently facing the following charges:
 - i) 3 x break and enter
8. I was arrested on these charges on the 1st January 2001. I was granted bail in respect of these charges on the 3rd day of February 2001 at the Magistrate's Court at Brisbane on the following conditions:
 - a) that I report to the Maine Police Station each Monday, Wednesday and Friday between the hours of 8 a.m. and 4 p.m.
 - b) that I provide a surety in the amount of \$1,000

SHFF7 1

Signed.

Taken by.

Affidavit

Filed on behalf of Jane Helene Plain

Address for Service

Jane Helene Plain

Maine Women's Correctional Centre

9 Rain Lane

Maine Q 4444

Form 11

practice form 2: affidavit

IN THE SUPREME COURT OF QUEENSLAND AT **(PLACE)**

Number:

RE: AN APPLICATION FOR BAIL BY **(YOUR NAME)**

I, **(YOUR NAME)** of **(name of Correctional Centre)** in the State of Queensland, prisoner, make oath and say as follows:-

1. I am the applicant in this matter.
2. I was born on the **(date of birth)** at **(city, country of birth)** and I am **(age)** years of age.
3. I stand remanded on the following:
 - a) **(list of all charges)**
4. In respect of the charges mentioned in paragraph 3 herein, I am next to appear in the **(name of court)** Court at **(place)** on the **(date)**.
5. I respectfully request that this Honourable Court admit me to bail pending my further Court appearances.
6. I have been in custody on remand since the **(date)**.
7. **OTHER PENDING CHARGES**
I am further currently facing the following charges:
 - i) **(list charges)**
8. I was arrested on these charges on the **(date)**. I was granted bail in respect of these charges on the **(date)** at the **(name of court)** Court at **(place)** on the following conditions:
 - a) **(set out any bail conditions placed on you)**

SHFF7 1

Signed.

Taken by.

Affidavit

Filed on behalf of **(your name)**

Address for Service

(your name)

(name and address of Correctional Centre)

Form 11

sample form 2: continued affidavit

9. RESIDENCE

Should this Honourable Court admit me to bail I believe that I have accommodation available at Nagol House Drug Rehabilitation Centre.

10. My usual place of residence is 2 Train Lane, Maine. I lived there for 6 months prior to my arrest. Prior to that I lived at 90 Pain Lane, Maine for 12 months. I was born in Queensland and have lived here all my life.

11. EMPLOYMENT

Should this Honourable Court admit me to bail, I believe that I would be unemployed and undertaking drug rehabilitation

12. Prior to my arrest I was unemployed for 2 years. Prior to that I was employed by Brain's Construction between 1994 and 1997 as a secretary. Between 1997 and 1999 I was employed by Dane Lane's Paint Producing Factory as an administrative assistant.

13. SURETY

I state that ELAINE LAINE has told me and I verily believe that she is willing and able to provide a surety for me in regard to these charges in the amount of \$5,000. ELAINE LAINE is my friend and resides at 1 Chain Lane, Maine and I have known her for 5 years. She can be contacted on (07) 4444 4444. Exhibited and marked "A" is a letter from ELAINE LAINE confirming that she can provide a surety of \$5,000.

14. PASSPORT

I am the holder of a current valid passport. I am prepared to surrender it within 24 hours of my release to the Officer-in-Charge of the police station at Maine. The passport is currently located at 2 Train Lane, Maine.

15. PREVIOUS BREACHES OF BAIL

I have a conviction for breach of bail. I was convicted of this on the 25th day of January 1995. My explanation surrounding this is that at the time I was required to appear at the Magistrates Court at Brisbane I was in the hospital as a result of a drug overdose.

SHEET 2

Signed

Taken by.

practice form 2: continued affidavit

9. RESIDENCE

Should this Honourable Court admit me to bail I believe that I have accommodation available at **{name/address of place. If a private home, list who you will be living with and their relationship to you eg, mother, de-facto}**.

10. My usual place of residence is **{address}**. I lived there for **{length of time}** prior to my arrest. Prior to that I lived at **{address}** for **{length of time}**. I was born in Queensland and have lived here all my life **{if applicable}**.

11. EMPLOYMENT

Should this Honourable Court admit me to bail, I believe that I would be unemployed and undertaking drug rehabilitation. **{or}**

Should this Honourable Court admit me to bail, I believe that I would be employed by **{name of person employing you}** of **{company name}** as a **{position}**. I was employed in the above position prior to my arrest for **{length of time, if applicable}**. Exhibited and marked with the letter **{insert letter, eg "A", "B"}** is a true copy of a letter from **{set out details of letter including date, who it is written by, and a summary of what it says}**.

12. Prior to my arrest I was unemployed for **{length of time, if applicable}**. Prior to that I was employed by **{name of employer}** between **{year commenced}** and **{year concluded}** as a **{position}**. **{repeat for previous position if applicable}**.

13. SURETY

I state that **{NAME OF SURETY}** has told me and I verily believe that **{he/she}** is willing and able to provide a surety for me in regard to these charges in the amount of **{\$ amount}**. **{NAME OF SURETY}** is my **{relationship to you}** and resides at **{surety's address}** and I have known **{him/her}** for **{length of time}**. **{He/She}** can be contacted on **{phone number}**. Exhibited and marked **{insert letter, eg "A", "B"}** is a true copy of a letter from **{set out details of letter including date, who it is written by, and a summary of what it says}**.

14. PASSPORT

I am not the holder of a current valid passport. **{or}**

I am the holder of a current valid passport. I am prepared to surrender it within 24 hours of my release to the Officer-in-Charge of the police station at **{a police station near your intended residence}**. The passport is currently located at **{address where it is located}**.

15. PREVIOUS BREACHES OF BAIL

I have a conviction for breach of bail **{if applicable}**. I was convicted of this on the **{date}**. My explanation surrounding this is **{give explanation}**.

SHEET 2

Signed

Taken by.

sample form 2: continued affidavit

16. PERSONAL INFORMATION

I have suffered from heroin addiction since 1995. I would like to undertake drug rehabilitation. I have been assessed as suitable to undertake the intensive rehabilitation program offered by Nagol House Drug Rehabilitation Centre. Exhibited and marked with the letter 'B' is a letter from Nagol House Drug Rehabilitation Centre.

17. I am also prepared to submit to random urine testing conducted by Nagol House and I am prepared to authorise the release of the testing results to the office of the Director of Public Prosecutions.

18. I am willing to comply with any conditions of bail that the Court may impose.

19. I will be defending the charges.

All the facts and circumstances deposed to in my affidavit are within my own knowledge and belief, except for the facts and circumstances deposed to from information only, and my means of knowledge and sources of information appear on the face of this my affidavit.

SWORN

by the deponent at Maine

Jane Helene Plain

.....
(Signature of Deponent)

this 1st day

of November, 2001

Wayne Maine

.....
Justice of the Peace

Before me

practice form 2: continued affidavit

16. **PERSONAL INFORMATION**

{insert any personal information you think the court should consider in assessing your application}

17. {insert any personal information you think the court should consider in assessing your application}.

18. I am willing to comply with any conditions of bail that the Court may impose

19. I will be defending the charges *{if applicable}*.

All the facts and circumstances deposed to in my affidavit are within my own knowledge and belief, except for the facts and circumstances deposed to from information only, and my means of knowledge and sources of information appear on the face of this my affidavit.

{Your signature - MUST BE WITNESSED BY A JUSTICE OF THE PEACE}

SWORN

by the deponent at **{place}**

.....
(Signature of Deponent)

this **{day}** day

of **{month}**, **{year}**

Before me

.....
Justice of the Peace

sample form 3: exhibit marking

IN THE SUPREME COURT OF QUEENSLAND AT BRISBANE

Number:

RE: AN APPLICATION FOR BAIL BY JANE HELENE PLAIN

Exhibit "A" to the affidavit of Jane Helene Plain sworn the ^{1st} day of November
2001

Jane Helene Plain

Wayne Mains

.....
Deponent

.....
Justice of the Peace

Certificate of exhibit

practice form 3: exhibit marking

IN THE SUPREME COURT OF QUEENSLAND AT **{PLACE}**

Number:

RE: AN APPLICATION FOR BAIL BY **{YOUR NAME}**

Exhibit: **{Insert letter, eg "A", "B"}** to the affidavit of **{your name}** sworn the **{date}**

*{Your signature - MUST BE
WITNESSED BY A JUSTICE OF THE PEACE}*

.....
Deponent

.....
Justice of the Peace

Certificate of exhibit

sample form 4: bail order

IN THE SUPREME COURT OF QUEENSLAND AT BRISBANE

NUMBER.

RE AN APPLICATION FOR BAIL BY JANE HELENE PLAIN

Before: Crane J

Date: 5th November 2001

Application filed in the Supreme Court of Queensland at Brisbane on the 10th May 2001

IT IS ORDERED THAT in relation to the charges:-

- (a) 1 x stealing with violence in company
- (b) 1x assault occasioning bodily harm
- (c) 1x break, enter and steal

the applicant be admitted to bail upon her own undertaking in respect of those charges, such undertaking being conditioned that:-

1. The applicant appear and surrender herself into custody:
 - a) At the Magistrates Court at Brisbane on the 18th December 2001 and on such other dates and times as the Magistrates Court may determine.
 - b) Before the criminal sittings of the Court to which she may be committed in respect of the offences or any of the them at the sittings specified by the court to which she is so committed at the date, time and place fixed for the trial, notice of which shall be given to her or her solicitor by the Director of Public Prosecutions or a person authorised by the Director of Public Prosecutions.
 - c) The applicant not depart from either of those Courts without leave of the court and so often as leave is granted, return at the time appointed by the court and again surrender herself into custody.
2. The applicant not contact or communicate with or attempt to contact or communicate, either directly or indirectly, with the complainant or any Crown witnesses.
3. The applicant resides at Nagol House Drug Rehabilitation Centre, Lot 57, Dirt Road, Maine in the State of Queensland unless she receives the prior written consent of the Director of Public Prosecutions to reside elsewhere.

ORDER

Filed on behalf of: Jane Helene Plain

Address for service:
Jane Helene Plain
Maine Women's Correctional Centre
9 Rain Lane
Maine Q 4444

Form 12

practice form 4: bail order

IN THE SUPREME COURT OF QUEENSLAND AT **(PLACE)**

NUMBER.

RE AN APPLICATION FOR BAIL BY **(YOUR NAME)**

Before: **(name of Judge in known, otherwise leave blank)**

Date: **(date of bail application hearing)**

Application filed in the Supreme Court of Queensland at: **(place)** on the **(date)**.

IT IS ORDERED THAT in relation to the charges:-

(a) (list of all your charges)

the applicant be admitted to bail upon **(his/her)** own undertaking in respect of those charges, such undertaking being conditioned that:-

1. The applicant appear and surrender **(him/her)**self into custody:
 - a) At the **(name of court)** Court at **(place)** on the **(date)** and on such other dates and times as the **(name of court)** may determine.
 - b) Before the criminal sittings of the Court to which **(he/she)** may be committed in respect of the offences or any of the them at the sittings specified by the court to which **(he/she)** is so committed at the date, time and place fixed for the trial, notice of which shall be given to **(him/her)** or **(his/her)** solicitor by the Director of Public Prosecutions or a person authorised by the Director of Public Prosecutions.
 - c) The applicant not depart from either of those Courts without leave of the court and so often as leave is granted, return at the time appointed by the court and again surrender **(him/her)**self into custody.
2. The applicant not contact or communicate with or attempt to contact or communicate, either directly or indirectly, with the complainant or any Crown witnesses.
3. The applicant resides at **(name/address of place)** in the State of Queensland unless **(he/she)** receives the prior written consent of the Director of Public Prosecutions to reside elsewhere.

ORDER

Filed on behalf of **(your name)**

Address for service

(your name)

(name and address of Correctional Centre)

Form 12

sample form 4: continued bail order

2

4. The applicant shall provide the Director of Nagol House with a written authority (as attached) for the Director of Nagol House to advise the Office of the Director of Public Prosecutions should the applicant abscond or be discharged from Nagol House, or should fail to submit to urine tests, and to provide the results of any urine tests conducted by Nagol House.
5. The applicant shall not be released from custody until an officer from the Director of Public Prosecutions has confirmed with a senior counsellor or management at Nagol House, that immediate accommodation is available to the applicant, and that suitable transport arrangements are in place to transport the applicant from Maine Women's Correctional Centre to Nagol House Drug Rehabilitation Centre.
6. The applicant shall depart and return to Nagol House to attend court in the company of an employee of Nagol House or a person approved by the Director of Public Prosecutions.
7. The applicant shall not use any illegal drug whilst on bail.

REASONS FOR GRANTING BAIL

Deputy Registrar

practice form 4: continued bail order

2

4. ***(If residing at a private residence)***
The applicant shall report to the Officer-in-Charge of the Police Station at **(place)** each Monday, Wednesday and Friday between the hours of 8 a.m. and 4 p.m., or at such other times as the Director of Public Prosecutions consents in writing **(or)**
(If residing at a rehabilitation centre)
The applicant shall provide the Director of **(name of Rehabilitation Centre)** with a written authority (as attached) for the Director of **(name of Rehabilitation Centre)** to advise the Office of the Director of Public Prosecutions should the applicant abscond or be discharged from **(name of Rehabilitation Centre)**, or should fail to submit to urine tests, and to provide the results of any urine tests conducted by **(name of Rehabilitation Centre)**.
5. ***(If residing at a rehabilitation centre)***
The applicant shall not be released from custody until an officer from the Director of Public Prosecutions has confirmed with a senior counsellor or management at **(name of Rehabilitation Centre)**, that immediate accommodation is available to the applicant, and that suitable transport arrangements are in place to transport the applicant from **(name of Correctional Centre)** to **(name of Rehabilitation Centre)**.
6. ***(If residing at a rehabilitation centre)***
The applicant shall depart and return to **(name of Rehabilitation Centre)** to attend court in the company of an employee of **(name of Rehabilitation Centre)** or a person approved by the Director of Public Prosecutions.
7. ***(If residing at a rehabilitation centre)***
The applicant shall not use any illegal drug whilst on bail.

REASONS FOR GRANTING BAIL

Deputy Registrar

sample form 5: application for variation of bail

IN THE SUPREME COURT OF QUEENSLAND AT BRISBANE

Number:

RE: AN APPLICATION FOR VARIATION OF BAIL BY SHANE BALMAIN PLAIN

I, **SHANE BALMAIN PLAIN** of East Maine Correctional Centre, apply to the Supreme Court of Queensland of Queensland at Brisbane for an order varying the bail granted to **SHANE BALMAIN PLAIN**

The application will be heard at 10:00 on 5th November 2001 in the Supreme Court at Brisbane

Details of bail order to be varied

Offences:	1 x stealing 1 x assault
Date order made:	16 th September 2001
Court making the order:	Magistrates Court at Brisbane
Conditions of bail:	\$5000 surety Bulresidence at 10 Drain Lane, Manne Report to Police Station at Manne
Condition to be varied:	\$5000 surety

Notice to applicant

1. You must also attach to this application any supporting affidavits or other documents that you will be relying on.
2. A copy of this application and the supporting affidavits or other documents must be served on the prosecutor at least 2 clear days before the day on which the application is to be heard unless the prosecutor agrees to receiving them later.

Shane B. Plain

.....
(signed) Applicant or lawyer

Date: 15 November 2001

Place: East Maine Correctional Centre

This application is to be served on: The Director, Office of the Director of Public Prosecutions
State Law Building, 5th Floor, Cr. George & Ann Streets,
Brisbane

Application for variation of bail
Filed on behalf of Shane Balmain Plain

Address for Service:
Shane Balmain Plain
East Main Correctional Centre
90 Raw Lane
Manne Q 4144

Form 4
(rule 25)

practice form 5: application for variation of bail

IN THE SUPREME COURT OF QUEENSLAND AT **{PLACE}**

Number:

RE: AN APPLICATION FOR VARIATION OF BAIL BY **{YOUR NAME}**

I, **{YOUR NAME}** of **{name of Correctional Centre}**, apply to the Supreme Court of Queensland of Queensland at **{place}** for an order varying the bail granted to **{YOUR NAME}**.

The application will be heard at 10.00 on **{Registry will insert date}** in the Supreme Court at **{place}**.

Details of bail order to be varied

Offences: **{list of all charges for which bail was granted}**
Date order made: **{date}**
Court making the order: **{court and place}**
Conditions of bail: **{briefly list your conditions of bail}**
Condition to be varied: **{list the conditions you want varied}**

Notice to applicant

1. You must also attach to this application any supporting affidavits or other documents that you will be relying on.
2. A copy of this application and the supporting affidavits or other documents must be served on the prosecutor at least 2 clear days before the day on which the application is to be heard, unless the prosecutor agrees to receiving them later.

.....
(signed) Applicant or lawyer

Date: **{date}**

Place: **{name of Correctional Centre}**

This application is to be served on: **The Director, Office of the Director of Public Prosecutions,
State Law Building, 5th Floor, Corner George & Ann Streets,
Brisbane**

Application for variation of bail

Filed on behalf of: **{your name}**

Address for Service:

{your name}

{name and address of Correctional Centre}

Form 4
(rule 25)

sample form 6: affidavit (in support of application to vary bail)

IN THE SUPREME COURT OF QUEENSLAND AT BRISBANE

Number:

RE AN APPLICATION FOR VARIATION OF BAIL BY SHANE BALMAIN PLAIN

I, **SHANE BALMAIN PLAIN** of East Maine Correctional Centre in the State of Queensland state on oath:

- 1 I am the applicant in this matter
- 2 I was born on the 12th April 1973 in Maine, Australia and I am 28 years of age.
- 3 I have been charged with the following offences:
 - a) 1 x stealing
 - b) 1 x assault
- 4 In respect of the aforesaid charges, I am next to appear in the Magistrates Court at Brisbane on the 19th January 2002.
- 5 I was admitted to bail in the Magistrates Court at Brisbane on the 16th September 2001 on the following conditions:
 - a) That I reside at 10 Drain Lane.
 - b) That I report to the Officer-in-Charge of the Police Station at Maine each Monday, Wednesday and Friday between the 8 a.m. and 4 p.m.
 - c) That a \$5,000 surety be provided.
- 6 I respectfully request that this Honourable Court vary my bail as I have contacted all my family members that live in Queensland and they have advised me that they are unable to raise the amount of the surety. I have also contacted a number of other friends who also cannot raise this amount. I do not know anyone else I can ask to provide a surety.
- 7 I have been on remand since on or about the 23rd July 2001.
- 8 I request that my previous bail order be vacated and a fresh order made.

TERMS OF NEW ORDER

9. If this Honourable Court admits me to bail I would be prepared to reside at 10 Drain Lane, Maine with my wife **LORRAINE PLAIN** and my two children **SHANEY PLAIN** aged 10 years and **JANEY PLAIN** aged 6 years.

SHEET 1

Signed:

Taken by

Affidavit

Fred on behalf of: Shane Balmain Plain

Address for service:
Shane Balmain Plain
East Maine Correctional Centre
99 Rain Lane
Maine Q 4444

Form 11

sample form 6: affidavit (in support of application to vary bail)

IN THE SUPREME COURT OF QUEENSLAND AT **{PLACE}**

Number:

RE AN APPLICATION FOR VARIATION OF BAIL BY **{YOUR NAME}**

I, **{YOUR NAME}** of **{name of Correctional Centre}** in the State of Queensland state on oath:

1. I am the applicant in this matter
2. I was born on the **{date of birth}** in **{city, country of birth}** and I am **{age}** years of age.
3. I have been charged with the following offences:
a) {list of all charges}
4. In respect of the aforesaid charges, I am next to appear in the **{name of court}** Court at **{place}** on the **{date}**.
5. I was admitted to bail in the **{name of court}** Court **{place}** on the **{date}** on the following conditions:
a) {list conditions of bail}
6. I respectfully request that this Honourable Court vary my bail **{state reasons why you want to vary your bail conditions}**.
7. I have been on remand since on or about the **{date}**.
8. I request that my previous bail order be vacated and a fresh order made.

TERMS OF NEW ORDER

9. If this Honourable Court admits me to bail I would be prepared to reside at **{address}** with **{names of all persons with which you will be living, and names and ages of any children living at that address}**.

SHEET 1

Signed.

Taken by

Affidavit

Filed on behalf of: **{your name}**

Address for service:

{your name}

{name and address of Correctional Centre}

Form 11

sample form 6: continued

affidavit (in support of application to vary bail)

10. If this Honourable Court admits me to bail I would be prepared to report to the Officer-in-Charge of the Police Station at Maine as often as this Honourable Court requires.
11. If this Honourable Court admits me to bail I would be prepared to undergo alcohol/drug testing.
12. If this Honourable Court admits me to bail I would be prepared to participate in a drug counselling program with the Maine Counselling Service.
13. EMPLOYMENT
Should this Honourable Court admit me to bail, I would be unemployed.
a) Prior to my arrest I was employed by Dane Lane's Paint Producing Factory in Brisbane as a painter for 5 years.
14. PASSPORT
I do not hold a current valid passport.
15. I am willing to comply with any conditions of bail that the Court may impose.
16. I will be defending the charges.

All the facts and circumstances herein deposed to are within my own knowledge and belief save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my affidavit.

Shane B Plain

SWORN

by the deponent at Maine

.....
(Signature of Deponent)

this 15th day

of November, 2001

Wayne Haine

Before me

.....
Justice of the Peace

practice form 6: continued

affidavit (in support of application to vary bail)

10. If this Honourable Court admits me to bail I would be prepared to report to the Officer-in-Charge of the Police Station at **(place)** as often as this Honourable Court requires.
11. If this Honourable Court admits me to bail I would be prepared to undergo alcohol/drug testing **(if applicable)**.
12. If this Honourable Court admits me to bail I would be prepared to participate in a drug counselling program with the **(name of counselling service)** **(if applicable)**.
13. **EMPLOYMENT**
Should this Honourable Court admit me to bail, I would be unemployed
- a) Prior to my arrest I was employed by **(name of employer)** as a **(position)** for **(length of time)**.
(or)
Should this Honourable Court admit me to bail, I believe that I would be employed by **(name of person employing you)** of **(company name)** as a **(position)**. I was employed in the above position prior to my arrest for **(length of time, if applicable)**.
14. Prior to that I have been employed in the following capacities:
a) **(employment history)**
15. **PASSPORT**
I am not the holder of a current valid passport. **(or)**
I am the holder of a current valid passport. I am prepared to surrender it within 24 hours of my release to the Officer-in-Charge of the police station at **(station where you will be reporting)**. The passport is currently located at **(address where it is located)**.
16. I am willing to comply with any conditions of bail that the Court may impose.
17. I will be defending the charges **(if applicable)**.

All the facts and circumstances herein deposed to are within my own knowledge and belief save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my affidavit.

(Your signature - MUST BE
WITNESSED BY A JUSTICE OF THE PEACE)

.....
(Signature of Deponent)

SWORN

by the deponent at **(place)**

this **(day)** day

of **(month)**, **(year)**

Before me

.....
Justice of the Peace

sample form 7: bail order (in support of variation of bail)

IN THE SUPREME COURT OF QUEENSLAND AT BRISBANE

NUMBER:

RE: AN APPLICATION TO VARY BAIL BY SHANE BALMAIN PLAIN

Before: Frayne J

Date: 20 November 2001

Application filed in the Supreme Court of Queensland at Brisbane on the 15th November 2001.

IT IS ORDERED THAT in relation to the charges:

- a) 1 x stealing
- b) 1 x assault

the applicant's bail be varied by deleting the requirement of one surety in the sum of \$5000 and that he be admitted to bail upon his own undertaking in respect of those charges, such undertaking being conditioned that:-

1. The applicant appear and surrender himself into custody;
 - a) At the Magistrates Court at Brisbane on the 19th January 2001 and on such other dates and times as the Magistrates Court may determine.
 - b) Before the criminal sittings of the Court to which he may be committed in respect of the offences or any of them at the sittings specified by the Court to which he is so committed at the date, time and place, fixed for the trial, notice of which shall be given to him or his solicitor by the Director of Public Prosecutions or a person authorised by the Director of Public Prosecutions.
 - c) The applicant not depart from either Court without leave of the court and so often as leave is granted, return at the time appointed by the court and again surrender himself into custody.

ORDER

Filed on behalf of Shane Balmain Plain

Address for service:
Shane Balmain Plain
East Main Correctional Centre
99 Rain Lane
Maine Q 4444

Form 12
Criminal Practice Rules 1999

practice form 7: bail order (in support of variation of bail)

IN THE SUPREME COURT OF QUEENSLAND AT (PLACE)

NUMBER:

RE: AN APPLICATION TO VARY BAIL BY (YOUR NAME)

Before: (name of Judge if known, otherwise leave blank)

Date: (date of bail application hearing)

Application filed in the Supreme Court of Queensland at (place) on the (date).

IT IS ORDERED THAT in relation to the charges:-

a) (list of all your charges)

the applicant's bail be varied by deleting (list conditions to be changed) and that (he/she) be admitted to bail upon (his/her) own undertaking in respect of those charges, such undertaking being conditioned that:-

1. The applicant appear and surrender (him/her)self into custody,
 - a) At the (name of court) Court at (place) on the (date) and on such other dates and times as the (name of court) Court may determine.
 - b) Before the criminal sittings of the Court to which (he/she) may be committed in respect of the offences or any of them at the sittings specified by the Court to which (he/she) is so committed at the date, time and place, fixed for the trial, notice of which shall be given to (him/her) or (his/her) solicitor by the Director of Public Prosecutions or a person authorised by the Director of Public Prosecutions.
 - c) The applicant not depart from either Court without leave of the court and so often as leave is granted, return at the time appointed by the court and again surrender (him/her)self into custody.

ORDER

Filed on behalf of: (your name)

Address for service:

(your name)

(name and address of Correctional Centre)

Form 12
Criminal Practice Rules 1999

sample form 7: continued

bail order (in support of variation of bail)

2

2. The applicant not contact or communicate with or attempt to contact or communicate, either directly or indirectly, with the complainants or any Crown witnesses.
3. The applicant resides at 10 Drain Lane, Maine in the State of Queensland unless he receives the prior written consent of the Director of Public Prosecutions to reside elsewhere.
4. The applicant shall report to the Officer-in-Charge of the Police Station at Maine each Monday, Wednesday and Friday between the hours of 8 a.m. and 4 p.m., or at such other times as the Director of Public Prosecutions consents to in writing.
5. The applicant will submit to random drug/alcohol testing by his nominated medical practitioner, at the request of the Director of Public Prosecutions.
6. The applicant will participate in a drug counselling program with the Maine counselling service

REASONS

Sheriff or Registrar

practice form 7: continued bail order (in support of variation of bail)

2

2. The applicant: not contact or communicate with or attempt to contact or communicate, either directly or indirectly, with the complainants or any Crown witnesses
3. The applicant resides at: **[name/address of place]** in the State of Queensland unless **[he/she]** receives the prior written consent of the Director of Public Prosecutions to reside elsewhere
4. **[list any other conditions applicable]**

REASONS

Sheriff or Registrar

Letters of Support

Arrange to get letters from people who can support your application. Copies of your letters of support need to be exhibited to your Affidavit. Each exhibit must have an exhibit marking attached. See the sample exhibit marking on page 24. Take the original letters with you to court on the day the application is heard.

Surety – Ask your surety to write a letter to the court confirming their offer of surety.

The letter should include:

- How much they are offering as surety.
- Proof that they can afford this amount.
- A statement showing they understand that they lose the money if you fail to appear in court at the next scheduled time.
- A statement showing they know of the charges you are facing.

Employment – If someone has offered you a job, arrange for that person to write a letter of confirmation. The letter should include:

- Whether you have worked there before.
- What work you will be doing.
- Whether the position is permanent or casual.
- The hours and days of the week you will be working.

Residence – Get a letter from the person you will be living with confirming the details in your Affidavit. This person should also state that they are aware of your charges, their relationship to you and whether they are willing to report any breaches of bail to the Director of Public Prosecutions.

Medical condition – If you have a medical condition and feel you cannot be treated properly while on remand, get a doctor’s letter detailing your medical history/condition and the name of your regular doctor. If you have access to a more detailed report, you can hand it to the Judge at the your bail application hearing.

Drug/Alcohol rehabilitation – It may help your application if you are on, or would like to join, a rehabilitation program for drug or alcohol abuse, which would continue while you are on bail. Some programs offer live-in accommodation to people on bail. If you are prepared to reside at a drug/alcohol rehabilitation centre as a condition of your bail ask the drug and alcohol counsellor at your centre to arrange an assessment. Once you have been assessed as suitable for a live-in program, ask the rehabilitation centre to provide written confirmation, which you can provide to the Court.

Sample letters

The following section contains sample letters and reports. Use these as a guide to the types of information that should be included by people who write letters supporting your application.

If the people writing letters to support your application are unsure about how or what to write, send them a photocopy of the sample letter that relates to them. Tell them to use this letter as a guide.

“Arrange to get letters from people who can support your application.”

Employer's letter

(date)

(name of employer)

(address of employer)

(phone number of employer)

To whom it may concern

I have offered ***(your name)*** a full time position as a ***(job, eg, motor mechanic)*** if he is granted bail. I understand that ***(your name)*** is charged with ***(enter charges)***.

His duties will include ***(describe, eg. servicing engines)***.

(Your name) was previously employed by me from ***(date)*** to ***(date)***.

Yours sincerely

(signature of employer)

(name of employer)

Surety's letter

(date)

(name of surety)

(address of surety)

(phone number of surety)

To whom it may concern

I offer to provide ***(amount of surety)*** as surety for ***(your name)***. I understand that ***(your name)*** is charged with ***(enter charges)***.

I understand that this amount is forfeited by me if ***(your name)*** does not appear at court at the next scheduled date.

This surety is offered against ***(object of value, eg: the value of my home at the above address. This house is valued at \$130,000 and has \$35,000 left owing in repayments)***.

Yours sincerely

(signature of surety)

(name of surety)

stage 2 – filing your bail application

Now that you have completed the practice forms included with this kit, there are several steps you need to follow before lodging them with the Supreme Court.

“Do not sign your Affidavit until it can be witnessed by an appropriate person...”

Step 1 – Preparing your final forms

Spend time checking that all the information on the practice forms is correct.

Mistakes may stop you getting bail.

When you are sure all the forms are correct then include the information in the final form. These forms need to be typed. Arrange access to a typewriter through your Unit Officer, Welfare Counsellor or the bail clerk at your centre.

Make sure you have your Application for Bail and Affidavit forms.

Make sure your name and address are in the footnote of the first page of Application for Bail and in the footnote of the first page of your Affidavit.

If your forms are not completed exactly as in the samples, the court will not accept them.

Important

If you find a mistake in your Affidavit after it is typed, rule a line through it and write the correct information. Do not use liquid paper. When having your Affidavit witnessed, you and the person witnessing must write your initials beside any changes.

Step 2 – Getting your final forms witnessed

You must sign your Application for Bail.

Your final Affidavit must be signed in front of a Justice of the Peace, Commissioner for Declarations or a lawyer before it is filed in Court.

The draft Order is not signed by you. It is signed by the Deputy Registrar if you are granted bail.

Important

Do not sign your Affidavit until it can be witnessed by either of these people. Ask your Unit Officer, Welfare Counsellor or the bail clerk to help you organise these signatures.

Step 3 – Getting your bail application to the Supreme Court

After the final forms are signed and witnessed, make three photocopies of all your forms. Keep one copy of all the forms for yourself and give the originals and the two other copies to the bail clerk at your centre who will arrange for collection or delivery to the filing agents.

If there is no bail clerk at your centre then:

- **On the front of the envelope** write the name and address of the agent filing the documents for you (listed below).
- **On the back of the envelope** write your name and address of your correctional centre.
- **On the front and back of the envelope** write “Private and Confidential Legal Correspondence”

When an agent has filed your documents at the court registry, the court will tell your correctional centre the hearing date so that your correctional centre can arrange to transport you to court. Applications are usually heard in court within one week of the documents being filed.

Arrangements have been made with the following agencies to file your documents at court:

For inmates at **Lotus Glen Correctional Centre:**

Far North Queensland Family and Prisoners Support Inc (FNQFAPS)
PO BOX 359
MANUNDA Qld 4870
Tel. 4051 4485

Documents are filed and served on Wednesdays

For inmates at **Townsville Correctional Centre:**

Townsville Community Legal Centre
PO Box 807
TOWNSVILLE Qld 4810
Tel. 4721 5511

Documents are filed and served on Wednesdays

For inmates at **Rockhampton Correctional Centre:**

Legal Aid Queensland
PO Box 442
ROCKHAMPTON Qld 4700
Tel. 4927 5277

Documents are filed and served once a week

For inmates at **south-east Queensland correctional centres:**

Prisoners' Legal Service Inc
PO Box 5162
WEST END Qld 4101
Tel. 3846 3384 Tuesday and Thursday 9am to 1pm

Documents are filed and served on Fridays

“Applications are usually heard in court within one week of the documents being filed.”

stage 3 – at court

What to bring to court

It is important to dress cleanly and neatly when you go to court.

Make sure you bring all copies of your documents to court. These include:

- Your Application for Bail
- Your Affidavit
- Letters of Support
- Draft Order

Prepare a checklist for your bail hearing listing the main reasons why you want bail.

If you are asked whether you have something to say, have your important statements written on one page ready to present. This is easier than flicking through the pages of your Affidavit and Application for Bail.

“Prepare a checklist for your bail hearing listing the main reasons why you want bail.”

What to do in Court

1. You will be escorted into the court room and shown where to sit.
2. The Crown will provide you with a copy of the material they intend to rely on.
3. The judge will ask the Crown to indicate what material they have for the judge to read, and may ask if you have further material such as supporting letters to give the court.
4. The judge will ask everyone to be seated and will read the material.
5. The judge will ask the Crown to make their submissions. This means they state why they think you should not get bail, or the Crown may tell the judge your bail application is not opposed.

Important

You should address the judge as “Your Honour”.

If the prosecutor says something you disagree with, do not interrupt. You will be given an opportunity to state your case later.

The judge will ask you for submissions to support your application. This means you have to repeat the important information included in your Affidavit and highlight any letters of support you have. It is not enough to rely on the fact that this information is contained in the Affidavit.

Stress the important parts of your application and explain these in detail. Do not argue whether you are guilty or not guilty of the charges or what your defence is.

Anything you say at your bail hearing can be used against you at your trial.

8 the judge's decision

The Judge has three options.

1. The Judge can grant you bail

If the judge grants you bail, certain conditions will follow. For example, you may have to provide a surety and report regularly to your local police station. You will be taken back to the correctional centre to be released.

If you have to provide a surety, the person providing the surety must come to the correctional centre or the local Magistrates Court to sign an **Affidavit of Justification**. People providing sureties must sign this Affidavit and the surety must bring with them at least two forms of photo identification and all relevant documents – for example, bank statements or copies of property deeds.

The Judge may use your bail Order, add or delete clauses from your bail Order, or require a new Order to be drafted by the Director of Public Prosecutions.

2. The Judge can refuse bail

If the Judge refuses to grant you bail, you can apply again if your circumstances change. For example, you may not have had a surety for this application but you may be able to organise one now.

3. The Judge can adjourn the application

The Judge may adjourn the hearing of your application because they may need further information from you or the Crown. For example, are you able to obtain a place in a live-in drug rehabilitation program?

If the Judge fixes a date for the hearing, you will attend court on that date.

If the Judge adjourns the hearing of the application to a date to be fixed, you set the next court date by writing a letter to the Supreme Court (see sample on page 46), attaching a copy of your Application for Bail to the letter and requesting another court date. The Supreme Court will inform you of the date. You must then write to the Director of Public Prosecutions to tell them the new court date.

*“The Judge
has three
options...”*

Letter to the Supreme Court

(date)

Registrar of the Supreme Court

(address of Registrar)

Dear Sir/Madam

I attended before the Supreme Court on ***(date)*** where it was ordered that my bail application be adjourned to a date to be fixed. I am now ready to proceed with my application and request a chamber date as soon as possible.

Yours sincerely

(your signature)

(your name)

(file number)

9 bail pending an appeal

If you are appealing against a conviction or sentence you can apply for bail until the appeal is heard if you can show exceptional circumstances.

The application for bail is the same as for an ordinary application.

The Affidavit you need to complete for a bail application pending an appeal is almost the same as the one in this kit, but there are a few extra things you need to do. It is best that you seek legal advice if you are in this situation.

You can apply for bail pending an appeal after a sentence or a trial, however the court will usually only grant bail if the sentence you are serving is for six months or less.

The court considers:

- The nature of the offences you are appealing, and the sentences you received.
- Whether there is a risk that you will have served all or most of your sentence before your appeal is heard.
- Whether there are special circumstances which show that an error was made in the proceedings in the lower court, so that there is a good chance that your appeal will be successful. As with normal bail applications, the court will not want to hear all the arguments for the appeal.

Appeal bail is only granted in exceptional circumstances and decisions are usually treated as correct unless they are proved wrong by the Court of Appeal.

***“Appeal bail
is only
granted in
exceptional
circumstances.”***

Legal Aid Queensland offices

- **Brisbane**
44 Herschel Street
BRISBANE Q 4000
- **Bundaberg**
2nd Floor, WIN Tower
Cnr Quay & Barolin Streets
BUNDABERG Q 4670
- **Caboolture**
Ground Floor, Kingsgate,
42 King Street
CABOOLTURE Q 4510
- **Cairns**
Ground Floor, Equity Central
46 Spence Street
CAIRNS Q 4870
- **Inala**
Level 1, Inala Commonwealth Office
20 Wirraway Parade
INALA Q 4077
- **Ipswich**
97 Brisbane Street
IPSWICH Q 4305
- **Mackay**
Ground Floor,
17 Brisbane Street
MACKAY Q 4740
- **Maroochydore**
Ground Floor, M1 Building
1 Duporth Avenue
MAROOCHYDORE Q 4558
- **Mount Isa**
6 Miles Street
MOUNT ISA Q 4825
- **Rockhampton**
Ground Floor,
35 Fitzroy Street
ROCKHAMPTON Q 4700
- **Southport**
1st Floor
100 Scarborough Street
SOUTHPORT Q 4215
- **Toowoomba**
1st Floor,
154 Hume Street
TOOWOOMBA Q 4350
- **Townsville**
3rd Floor, Woodridge Place.
280 Flinders Street Mall
TOWNSVILLE Q 4810
- **Woodridge**
1st Floor, Woodridge Place
Cnr Ewing Road & Carmody Street
WOODRIDGE Q 4114

1300 65 11 88

"to enhance access to justice in Queensland"

www.legalaid.qld.gov.au

Prisoners' Legal Service

PO Box 5162
WEST END Q 4101

(07) 3846 3384 or 1800 813 940

"justice behind bars"

www.lrvnet.org.au/pls/



Justice Behind Bars

**PRISONERS'
LEGAL
SERVICE INC.**



**Legal Aid
QUEENSLAND**

June 2001